



FOLEY & LARDNER LLP

ATTORNEYS AT LAW

90 PARK AVENUE
 NEW YORK, NY 10016 1314
 212.682.7474 TEL
 212.687.2329 FAX
 foley.com

September 2, 2008

WRITER'S DIRECT LINE
 212.338.3528
 rweisbein@foley.com EMAIL

CLIENT/MATTER NUMBER
 093035 6000

USDC SDNY
 DOCUMENT
 ELECTRONICALLY FILED

DOC #:

DATE FILED: SEP 03 2008

VIA FACSIMILE (212) 805-0426

Honorable Laura T. Swain
 United States District Court
 Southern District of New York
 500 Pearl Street
 New York, NY 10007

MEMO ENDORSED

Re: 08-CIV-4581
 Yahoo! Inc. v. XYZ Companies 1-25 and
 JOHN/JANE DOES I-25
 a/k/a the "Yahoo! Lottery Spammers"

Dear Judge Swain,

We represent plaintiff, Yahoo! Inc. ("Yahoo!"), in the above-referenced civil action. We write to request adjournment of the pre-trial conference scheduled for this Friday, September 5, 2008, because as of yet we have not been able to identify the perpetrators of the Yahoo! lottery scam to a degree sufficient to name them as defendants. However, as explained below, we believe we are making progress to that end. We propose that the pre-trial conference be rescheduled to such time as the court finds appropriate in light of our request below for a 90-day extension of the period for service of process. Of course, if and when we identify any defendants, we will promptly amend the Complaint to name them, provide the court with a courtesy copy of the Amended Complaint, and effectuate service of process.

As we wrote in our letter of July 11, 2008, unknown parties are running a far-reaching email spam campaign, attempting to trick internet users into believing that they have won a fictional "Yahoo! Lottery." No such lottery exists, and the perpetrators are collecting personal information and processing fees from unwitting recipients of these emails who attempt to collect their prize money. The facts of the scam are set forth in great detail in the Complaint. We are continuing our efforts to discover the identities of the parties behind this email scam so that we may name them as defendants.

On July 14, 2008, the court granted permission to subpoena certain internet service providers and bank institutions prior to the Fed. R. Civ. P. 26(f) conference in attempts to identify the perpetrators of this scam. Accordingly, subpoenas have been served, and the responses we have received thus far have helped us differentiate the perpetrators of the scam from the victims. We

BOSTON
 BRUSSELS
 CENTURY CITY
 CHICAGO
 DETROIT

JACKSONVILLE
 LOS ANGELES
 MADISON
 MIAMI
 MILWAUKEE

NEW YORK
 ORLANDO
 SACRAMENTO
 SAN DIEGO
 SAN DIEGO/DEL MAR

SAN FRANCISCO
 SHANGHAI
 SILICON VALLEY
 TALLAHASSEE
 TAMPA

TOKYO
 WASHINGTON, D.C.



FOLEY & LARDNER LLP

Honorable Laura T. Swain
September 2, 2008
Page 2

have served subpoenas on three internet service providers and ten financial institutions. The responses have led us to eliminate several email accounts associated with the scam as those of victims. The responses have also led us to two accounts with financial institutions in Africa that we are hopeful will allow us to name defendants, although the path is convoluted and requires us to discern the trails that the perpetrators of this scam have labored to cover.

The Fed. R. Civ. P. 4(m) 120-day period for service of process on the defendants expires Monday, September 15, 2008. Because we have not yet been able to identify the defendants, we request the court's permission to extend the period by an additional ninety (90) days. We believe that by that time, we should either have been able to successfully identify the perpetrators of the scam, or have concluded that our efforts are not likely to yield positive results. We believe that Yahoo!'s efforts thus far as well as its continuing efforts to identify the defendants constitute good cause for the requested extension.

We are happy to provide the court with any additional information it would like to consider in this matter. If the court feels an in person conference is necessary, we are able to meet at the court's convenience.

Respectfully submitted,

Robert S. Weisbein

RSW:jbp

cc: Yahoo! Inc. (by email)

The extension and adjournment requests are granted. The conference is adjourned to February 6, 2008, at 10:00 AM.

SO ORDERED.

NEW YORK, NY

LAURA TAYLOR SWAIN
Sept 2, 2008 UNITED STATES DISTRICT JUDGE